

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 8440
9/18/14

1	CHAPTER 8440. WEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 3	
2	SUBCHAPTER A. GENERAL PROVISIONS	
3	Sec. 8440.001. DEFINITIONS	1
4	Sec. 8440.002. NATURE OF DISTRICT	2
5	Sec. 8440.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE	2
6	Sec. 8440.004. DISTRICT TERRITORY	3
7	Sec. 8440.005. APPLICATION OF CONDITIONS TO CREATION	4
8	SUBCHAPTER B. BOARD OF DIRECTORS	
9	Sec. 8440.051. COMPOSITION OF BOARD; TERMS	5
10	SUBCHAPTER C. POWERS AND DUTIES	
11	Sec. 8440.101. MUNICIPAL UTILITY DISTRICT POWERS AND	
12	DUTIES	8
13	CHAPTER 8440. WEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 3	
14	SUBCHAPTER A. GENERAL PROVISIONS	
15	<u>Revised Law</u>	
16	Sec. 8440.001. DEFINITIONS. In this chapter:	
17	(1) "Board" means the district's board of directors.	
18	(2) "Director" means a member of the board.	
19	(3) "District" means West Travis County Municipal	
20	Utility District No. 3. (Acts 71st Leg., R.S., Ch. 1212, Sec. 2;	
21	New.)	
22	<u>Source Law</u>	
23	Sec. 2. In this Act, "district" means West	
24	Travis County Municipal Utility District No. 3.	
25	<u>Revisor's Note</u>	
26	The definitions of "board" and "director" are	
27	added to the revised law for drafting convenience and	

1 to eliminate frequent, unnecessary repetition of the
2 substance of the definitions.

3 Revised Law

4 Sec. 8440.002. NATURE OF DISTRICT. The district is a
5 conservation and reclamation district in Travis County created
6 under Section 59, Article XVI, Texas Constitution. (Acts 71st
7 Leg., R.S., Ch. 1212, Secs. 1(a) (part), (b) (part).)

8 Source Law

9 Sec. 1. (a) A conservation and reclamation
10 district, to be known as West Travis County Municipal
11 Utility District No. 3, is created in Travis County,
12
13 (b) The district is created under and . . .
14 Article XVI, Section 59, of the Texas Constitution.

15 Revisor's Note

16 (1) Section 1(a), Chapter 1212, Acts of the 71st
17 Legislature, Regular Session, 1989, refers to a
18 confirmation election. Because the confirmation
19 election has already been held, the revised law omits
20 the provision as executed. The omitted law reads:

21 (a) . . . subject to approval at a
22 confirmation election under Section 9 of
23 this Act. . . .

24 (2) Section 1(a), Chapter 1212, Acts of the 71st
25 Legislature, Regular Session, 1989, provides that the
26 district is "a governmental agency and a body politic
27 and corporate." The revised law omits the provision
28 because it duplicates a portion of Section 59(b),
29 Article XVI, Texas Constitution, which provides that a
30 conservation and reclamation district is a
31 governmental agency and a body politic and corporate.
32 The omitted law reads:

33 (a) . . . The district is a
34 governmental agency and a body politic and
35 corporate.

36 Revised Law

37 Sec. 8440.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
38 The district is created to serve a public use and benefit.

1 (b) All land and other property included in the district
2 will benefit from the works and projects accomplished by the
3 district under powers conferred by Section 59, Article XVI, Texas
4 Constitution.

5 (c) The creation of the district is essential to accomplish
6 the purposes of Section 59, Article XVI, Texas Constitution. (Acts
7 71st Leg., R.S., Ch. 1212, Secs. 1(b) (part), 5.)

8 Source Law

9 [Sec. 1]

10 (b) [The district is created under and] is
11 essential to accomplish the purposes of [Article XVI,
12 Section 59, of the Texas Constitution].

13 Sec. 5. All of the land and other property
14 included within the boundaries of the district will be
15 benefited by the works and projects that are to be
16 accomplished by the district under powers conferred by
17 Article XVI, Section 59, of the Texas Constitution.
18 The district is created to serve a public use and
19 benefit.

20 Revised Law

21 Sec. 8440.004. DISTRICT TERRITORY. (a) The district is
22 composed of the territory described by Section 3, Chapter 1212,
23 Acts of the 71st Legislature, Regular Session, 1989, as that
24 territory may have been modified under:

25 (1) Subchapter H, Chapter 54, Water Code;

26 (2) Subchapter J, Chapter 49, Water Code; or

27 (3) other law.

28 (b) The boundaries and field notes of the district form a
29 closure. A mistake in the field notes or in copying the field notes
30 in the legislative process does not affect:

31 (1) the district's organization, existence, or
32 validity;

33 (2) the district's right to impose a tax; or

34 (3) the legality or operation of the district or its
35 governing body. (Acts 71st Leg., R.S., Ch. 1212, Sec. 4; New.)

36 Source Law

37 Sec. 4. The legislature finds that the
38 boundaries and field notes of the district form a
39 closure. A mistake in the field notes or in copying
40 the field notes in the legislative process does not

1 affect the organization, existence, or validity of the
2 district, the right of the district to levy and collect
3 taxes, or the legality or operation of the district or
4 its governing body.

5 Revisor's Note

6 (1) The revision of the law governing the
7 district does not revise the statutory language
8 describing the territory of the district to avoid the
9 recitation of the description and because that
10 description may not be accurate on the effective date
11 of the revision or at the time of a later reading. For
12 the reader's convenience, the revised law includes
13 references to the statutory description of the
14 district's territory and to the authority to change the
15 district's territory under Subchapter H, Chapter 54,
16 Water Code, applicable to municipal utility districts,
17 and under Subchapter J, Chapter 49, Water Code,
18 applicable to the district under Sections 49.001 and
19 49.002 of that chapter. The revised law also includes
20 a reference to the general authority of the
21 legislature to enact a law to change the district's
22 territory.

23 (2) Section 4, Chapter 1212, Acts of the 71st
24 Legislature, Regular Session, 1989, refers to the
25 district's authority to "levy and collect" taxes. The
26 revised law substitutes "impose" for "levy and
27 collect" because "impose" is the term generally used
28 in Title 1, Tax Code, and includes the levy and
29 collection of a tax.

30 Revised Law

31 Sec. 8440.005. APPLICATION OF CONDITIONS TO CREATION. The
32 enactment of Chapter 1212, Acts of the 71st Legislature, Regular
33 Session, 1989, did not affect conditions to the consent of the
34 creation of the district imposed by any jurisdiction in which the
35 district is located. (Acts 71st Leg., R.S., Ch. 1212, Sec. 11.)

1 Source Law

2 Sec. 11. Conditions to the consent of the
3 creation of the district imposed by any jurisdiction
4 in which the district is located are not amended,
5 repealed, or otherwise altered by the passage of this
6 Act and remain in full force and effect.

7 Revisor's Note

8 Section 11, Chapter 1212, Acts of the 71st
9 Legislature, Regular Session, 1989, provides that
10 conditions to the consent of the creation of the
11 district imposed by any jurisdiction in which the
12 district is located "are not amended, repealed, or
13 otherwise altered" by the enactment of that chapter.
14 The revised law substitutes "did not affect" for the
15 quoted language because, in the context of this
16 provision, "did not affect" is more concise and is the
17 substantive equivalent of the quoted language.

18 SUBCHAPTER B. BOARD OF DIRECTORS

19 Revised Law

20 Sec. 8440.051. COMPOSITION OF BOARD; TERMS. (a) The
21 district is governed by a board of five directors.

22 (b) Directors serve staggered four-year terms. (Acts 71st
23 Leg., R.S., Ch. 1212, Secs. 7(a), (d).)

24 Source Law

25 Sec. 7. (a) The district is governed by a board
26 of five directors.

27 (d) Permanent directors other than initial
28 permanent directors serve staggered four-year terms.

29 Revisor's Note

30 (1) Section 7(d), Chapter 1212, Acts of the 71st
31 Legislature, Regular Session, 1989, refers to
32 "[p]ermanent directors other than initial permanent
33 directors." The revised law omits "permanent" and
34 "other than initial permanent directors" as
35 unnecessary because provisions relating to those
36 distinctions have been executed.

37 (2) Sections 7(b) and (c), Chapter 1212, Acts of

1 the 71st Legislature, Regular Session, 1989, refer to
2 the temporary directors and the initial permanent
3 directors. The revised law omits Sections 7(b) and (c)
4 as executed because the terms of the temporary
5 directors and initial permanent directors have
6 expired. The omitted law reads:

7 (b) Temporary directors serve until
8 initial permanent directors are elected
9 under Section 9.

10 (c) Initial permanent directors
11 serve until permanent directors are elected
12 under Section 10.

13 (3) Section 7(e), Chapter 1212, Acts of the 71st
14 Legislature, Regular Session, 1989, requires a
15 director to qualify to serve in the manner provided by
16 Section 54.025 or 54.116, Water Code. The revised law
17 omits the reference to Section 54.025, Water Code, as
18 executed, because that section refers to the
19 qualification of a temporary director. The revised
20 law omits the reference to Section 54.116, Water Code,
21 because that section was repealed by Chapter 715, Acts
22 of the 74th Legislature, Regular Session, 1995.
23 Chapter 715 also enacted Section 49.055, Water Code,
24 which contains the qualification procedures for a
25 director of a municipal utility district. A reference
26 to Section 49.055, Water Code, is unnecessary because
27 that section applies to the district under Sections
28 49.001 and 49.002, Water Code. The omitted law reads:

29 (e) Each director must qualify to
30 serve as director in the manner provided by
31 Section 54.025 or 54.116, Water Code, as
32 appropriate.

33 (4) Section 7(f), Chapter 1212, Acts of the 71st
34 Legislature, Regular Session, 1989, provides that a
35 director serves until a successor has qualified. The
36 revised law omits the provision as unnecessary because
37 it duplicates Section 17, Article XVI, Texas
38 Constitution. That section requires an officer in

1 this state to continue to perform the officer's duties
2 until the successor has qualified. The omitted law
3 reads:

4 (f) A director serves until the
5 director's successor has qualified.

6 Revisor's Note
7 (End of Subchapter)

8 (1) Section 8, Chapter 1212, Acts of the 71st
9 Legislature, Regular Session, 1989, names and provides
10 for the qualification of and for filling vacancies on
11 the temporary board of directors. The revised law
12 omits that section as executed. The omitted law reads:

13 Sec. 8. (a) The temporary board of
14 directors is composed of:

- 15 (1) William T. Gunn III
16 (2) David McNeil
17 (3) James Shay
18 (4) Rayden Spracklen
19 (5) A. Leon Thompson

20 (b) If a temporary director fails to
21 qualify for office, the temporary directors
22 who have qualified shall appoint a person to
23 fill the vacancy. If at any time there are
24 fewer than three qualified temporary
25 directors, the Texas Water Commission shall
26 appoint the necessary number of persons to
27 fill all vacancies on the board.

28 (2) Section 9, Chapter 1212, Acts of the 71st
29 Legislature, Regular Session, 1989, provides for the
30 "temporary" board to conduct an election for the
31 district's initial elected board and to confirm the
32 district's creation. The revised law omits the section
33 as executed. The omitted law reads:

34 Sec. 9. (a) The temporary board of
35 directors shall call and hold an election to
36 confirm establishment of the district and
37 to elect five initial directors as provided
38 by Chapter 54, Water Code.

39 (b) Subsection (a), Section 41.001,
40 Election Code, does not apply to a
41 confirmation election held as provided by
42 this section.

43 (3) Section 10, Chapter 1212, Acts of the 71st
44 Legislature, Regular Session, 1989, provides that
45 after the district's confirmation election the
46 district shall hold a directors election to elect

1 initial directors with staggered terms and shall hold
2 subsequent elections for directors every second year
3 afterwards on the first Saturday in May. The revised
4 law omits those provisions as executed for the initial
5 election and as superseded for subsequent elections by
6 the 1995 enactment of Section 49.103, Water Code,
7 applicable to the district under Sections 49.001,
8 49.002, and 49.103(e), Water Code. Section 49.103
9 requires the election of the appropriate number of
10 directors to be held on the uniform election date in
11 May of even-numbered years. Section 49.103(e), Water
12 Code, provides that the provisions of Section
13 49.103(b) take precedence over all prior statutory
14 enactments. The omitted law reads:

15 Sec. 10. On the first Saturday in May
16 of the second year after the year in which
17 the confirmation election is held, an
18 election shall be held in the district for
19 the election of two directors who shall each
20 serve two-year terms and three directors
21 who shall each serve four-year terms.
22 Thereafter, on the same date in each
23 subsequent second year, the appropriate
24 number of directors shall be elected to the
25 board.

26 SUBCHAPTER C. POWERS AND DUTIES

27 Revised Law

28 Sec. 8440.101. MUNICIPAL UTILITY DISTRICT POWERS AND
29 DUTIES. The district has the rights, powers, privileges,
30 functions, and duties provided by general law, including Chapters
31 49, 50, and 54, Water Code, applicable to a municipal utility
32 district created under Section 59, Article XVI, Texas Constitution.
33 (Acts 71st Leg., R.S., Ch. 1212, Sec. 6(a) (part); New.)

34 Source Law

35 Sec. 6. (a) The district has all of the rights,
36 powers, privileges, authority, functions, and duties
37 provided by the general law of this state, including
38 Chapters 50 and 54, Water Code, applicable to
39 municipal utility districts created under Article XVI,
40 Section 59, of the Texas Constitution. . . .

Revisor's Note

(1) Section 6(a), Chapter 1212, Acts of the 71st Legislature, Regular Session, 1989, refers to the "rights, powers, privileges, [and] authority" of the district. The revised law omits "authority" because, in context, "authority" is included in the meaning of "rights, powers, [and] privileges."

(2) Section 6(a), Chapter 1212, Acts of the 71st Legislature, Regular Session, 1989, refers to Chapters 50 and 54, Water Code. For the reader's convenience, the revised law adds a reference to Chapter 49, Water Code, because Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed most of the provisions of Chapter 50 and many provisions of Chapter 54 and enacted similar provisions in Chapter 49, Water Code. Chapter 49 applies to municipal utility districts under Sections 49.001 and 49.002, Water Code.

(3) Section 6(a), Chapter 1212, Acts of the 71st Legislature, Regular Session, 1989, provides that the act prevails over general law in case of a conflict or inconsistency. The revised law omits the provision because it duplicates in substance Section 311.026(b), Government Code (Code Construction Act). The omitted law reads:

(a) . . . This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(4) Section 6(b), Chapter 1212, Acts of the 71st Legislature, Regular Session, 1989, refers to the continuing right of supervision to be exercised by the Texas Water Commission. The revised law omits the provision because the Texas Commission on Environmental Quality is the successor to the Texas Water Commission and therefore the provision

1 duplicates, in substance, part of Section 12.081,
2 Water Code, which applies to the district. The omitted
3 law reads:

4 (b) The rights, powers, privileges,
5 authority, functions, and duties of the
6 district are subject to the continuing
7 right of supervision of the state to be
8 exercised by and through the Texas Water
9 Commission.

10 Revisor's Note
11 (End of Chapter)

12 Section 12, Chapter 1212, Acts of the 71st
13 Legislature, Regular Session, 1989, provides that the
14 notice, introduction, and passage of the act satisfied
15 the requirements of the Texas Constitution, other laws
16 of this state, and rules and procedures of the
17 legislature. Section 12 also provides that the Texas
18 Water Commission timely filed recommendations
19 relating to the act. The revised law omits these
20 provisions as executed. The omitted law reads:

21 Sec. 12. (a) The proper and legal
22 notice of the intention to introduce this
23 Act, setting forth the general substance of
24 this Act, has been published as provided by
25 law, and the notice and a copy of this Act
26 have been furnished to all persons,
27 agencies, officials, or entities to which
28 they are required to be furnished by the
29 constitution and other laws of this state,
30 including the governor, who has submitted
31 the notice and Act to the Texas Water
32 Commission.

33 (b) The Texas Water Commission has
34 filed its recommendations relating to this
35 Act with the governor, lieutenant governor,
36 and speaker of the house of representatives
37 within the required time.

38 (c) All requirements of the
39 constitution and laws of this state and the
40 rules and procedures of the legislature
41 with respect to the notice, introduction,
42 and passage of this Act are fulfilled and
43 accomplished.